DOCUMENT RESUME

ED 441 052 UD 033 516

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TITLE Reducing Unnecessary Delay: Innovations in Case Processing. Pathways to Juvenile Detention Reform 5.
INSTITUTION Annie E. Casey Foundation, Baltimore, MD.
PUB DATE 1999-00-00
NOTE 47p.; For other "Pathways to Juvenile Detention Reform" reports, see UD 033 511-515 and UD 033 517-521.
AVAILABLE FROM Annie E. Casey Foundation, 701 St. Paul Street, Baltimore, MD 21202. Tel: 410-547-6600; Fax: 410-547-6624; Web site: http://www.aecf.org.
PUB TYPE Guides - Non-Classroom (055) -- Reports - Descriptive (141)
EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Adolescents; Delinquency; *Juvenile Justice; Youth Problems
IDENTIFIERS Adjudicated Youth; Case Processing Systems; *Detention; Juvenile Crime; *Reform Efforts; Reform Strategies

ABSTRACT

This report discusses how to reduce unnecessary delay in the juvenile justice system, presenting data from the Juvenile Detention Alternatives Initiative (JDAI). Chapter 1, "Why Focus on Unnecessary Delay?" explains the negative effects of unnecessary delays. Chapter 2, "Guiding Principles," examines principles inherent in all case processing reforms undertaken by JDAI sites (e.g., the end goal is not speed, but improved justice; custody levels alone should not drive case processing changes; and no court should be scheduled without a purpose). Chapter 3, "Opportunities for Case Processing Reform," emphasizes specific points in processing delinquency cases where unnecessary delay might occur (post-arrest, the initial appearance, pending adjudication, adjudication to disposition, and disposition to placement). Chapter 4, "System-Wide Efforts," discusses other broader efforts to address unnecessary delays (creating a position dedicated to tracking all cases in the system and expediting those suitable for earlier scheduling and release; focusing specifically on transfer, or waiver, cases tried in adult court; and reviewing all detained cases). Chapter 5, "Lessons Learned," discusses common lessons learned by JDAI sites. Chapter 6, "Getting Started," explains how to begin examining and improving case processing. (Contains 11 references and resources.) (SM)

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PATHWAYS TO JUVENILE DETENTION REFORM

REDUCING UNNECESSARY DELAY

innovations in case processing

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REDUCING UNNECESSARY DELAY

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by D. Alan Henry

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SERIES PREFACE

Many years ago, Jim Casey, a founder and long-time CEO of the United Parcel Service, observed that his least prepared and least effective employees were those unfortunate individuals who, for various reasons, had spent much of their youth in institutions, or who had been passed through multiple foster care placements. When his success in business enabled him and his siblings to establish a philanthropy (named in honor of their mother, Annie E. Casey), Mr. Casey focused his charitable work on improving the circumstances of disadvantaged children, in particular by increasing their chances of being raised in stable, nurturing family settings. His insight about what kids need to become healthy, productive citizens helps to explain the Casey Foundation's historical commitment to juvenile justice reform. Over the past two decades, we have organized and funded a series of projects aimed at safely minimizing populations in juvenile correctional facilities through fairer, better informed system policies and practices and the use of effective community-based alternatives.

In December 1992, the Annie E. Casey Foundation launched a multi-year, multi-site project known as the Juvenile Detention Alternatives Initiative (JDAI). JDAI's purpose was straightforward: to demonstrate that jurisdictions can establish more effective and efficient systems to accomplish the purposes of juvenile detention. The initiative was inspired by work that we had previously funded in Broward County, Florida, where an extremely crowded, dangerous, and costly detention operation had been radically transformed. Broward County's experience demonstrated that interagency collaboration and data-driven policies and programs could reduce the numbers of kids behind bars without sacrificing public safety or court appearance rates.

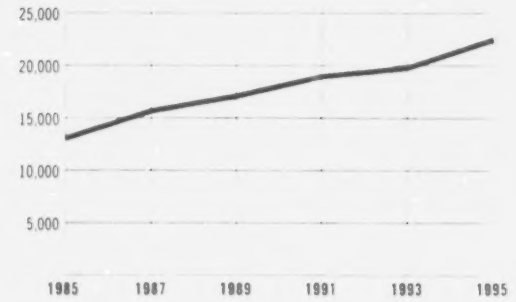
Our decision to invest millions of dollars and vast amounts of staff time in JDAI was not solely the result of Broward County's successful pilot endeavors, however. It was also stimulated by data that revealed a rapidly emerging national crisis in juvenile detention. From 1985 to 1995, the number of youth held in secure detention nationwide increased by 72 percent *(see Figure A)*. This increase

might be understandable if the youth in custody were primarily violent offenders for whom no reasonable alternative could be found. But other data *(see Figure B)* reveal that less than one-third of the youth in secure custody (in a one-day snapshot in 1995) were charged with violent acts. In fact, far more kids in this one-day count were held for status offenses (and related court order violations) and failures to comply with conditions of supervision than for dangerous delinquent behavior. Disturbingly, the increases in the numbers of juveniles held in secure detention facilities were severely disproportionate across races. In 1985, approximately 56 percent of youth in detention on a given day were white, while 44 percent were minority youth. By 1995, those numbers were reversed *(see Figure C)*, a consequence of greatly increased detention rates for African-American and Hispanic youth over this 10-year period.[1]

As juvenile detention utilization escalated nationally, crowded facilities became the norm rather than the exception. The number of facilities

FIGURE A

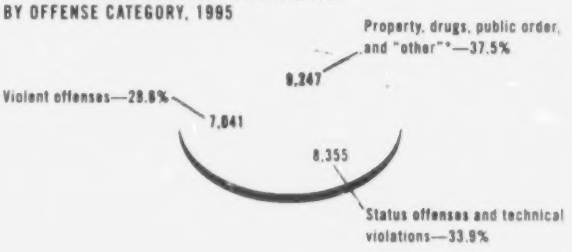
AVERAGE DAILY POPULATION OF JUVENILES IN U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

FIGURE B

ONE-DAY COUNTS IN DETENTION FACILITIES BY OFFENSE CATEGORY, 1995



*Examples of "other" include alcohol and technical violations.
Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

FIGURE C

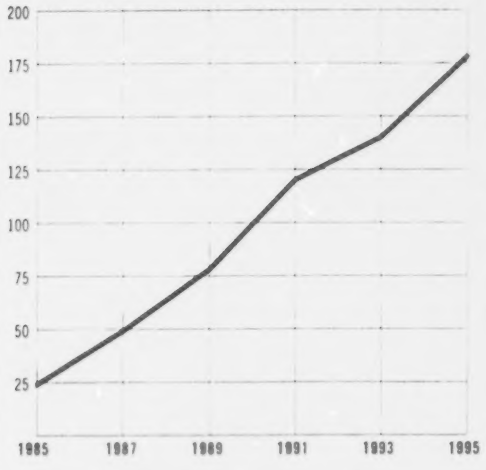
JUVENILES IN PUBLIC DETENTION CENTERS BY MINORITY STATUS, 1985-1995

Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

operating above their rated capacities rose by 642 percent, from 24 to 178, between 1985 and 1995 (*see Figure D*), and the percentage of youth held in overcrowded detention centers rose from 20 percent to 62 percent during the same decade *(see Figure E)*. In 1994, almost 320,000 juveniles entered overcrowded facilities compared to 61,000 a decade earlier.

FIGURE D

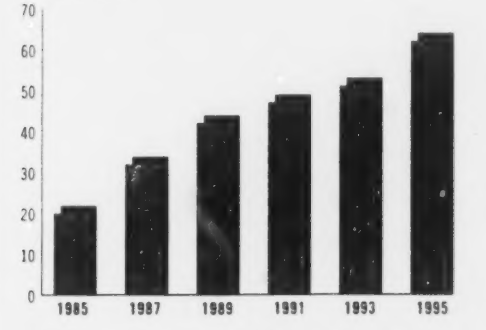
NUMBER OF OVERCROWDED U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

FIGURE E

PERCENTAGE OF JUVENILES IN OVERCROWDED U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

Crowding is not a housekeeping problem that simply requires facility administrators to put extra mattresses in day rooms when it's time for lights out. Years of research and court cases have concluded that overcrowding produces unsafe, unhealthy conditions for both detainees and staff. A recently published report by staff of the National Juvenile Detention Association and the Youth Law Center summarizes crowding's impact:

> *Crowding affects every aspect of institutional life, from the provision of basic services such as food and bathroom access to programming, recreation, and education. It stretches existing medical and mental health resources and, at the same time, produces more mental health and medical crises. Crowding places additional stress on the physical plant (heating, plumbing, air circulation) and makes it more difficult to maintain cleaning, laundry, and meal preparation. When staffing ratios fail to keep pace with population, the incidence of violence and suicidal behavior rises. In crowded facilities, staff invariably resort to increased control measures such as lockdowns and mechanical restraints.*[2]

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Crowding also puts additional financial pressure on an already expensive public service. Operating costs for public detention centers more than doubled between 1985 and 1995, from $362 million to almost $820 million *(see Figure F)*. Some of these increased operating expenses are no doubt due to emergencies, overtime, and other unbudgeted costs that result from crowding.

FIGURE F

TOTAL OPERATING EXPENDITURES IN U.S. PUBLIC DETENTION CENTERS, 1985-1995

Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995

JDAI was developed as an alternative to these trends, as a demonstration that jurisdictions could control their detention destinies. The initiative had four objectives:

- to eliminate the inappropriate or unnecessary use of secure detention;
- to minimize failures to appear and the incidence of delinquent behavior;
- to redirect public finances from building new facility capacity to responsible alternative strategies; and
- to improve conditions in secure detention facilities.

To accomplish these objectives, participating sites pursued a set of strategies to change detention policies and practices. The first strategy was *collaboration*, the coming together of disparate juvenile justice system stakeholders and other potential partners (like schools, community groups, the mental health system) to confer, share information, develop system-wide policies, and to promote accountability. Collaboration was also essential for sites to build a consensus about the limited purposes of secure detention. Consistent with professional standards and most statutes, they agreed that secure detention should be used only *to ensure that alleged delinquents appear in court at the proper times and to protect the community by minimizing serious delinquent acts while their cases are being processed.*

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Armed with a clearer sense of purpose, the sites then examined their systems' operations, using objective data to clarify problems and dilemmas, and to suggest solutions. They changed how admissions decisions were made (to ensure that only high-risk youth were held), how cases were processed (particularly to reduce lengths of stay in secure detention), and created new alternatives to detention programs (so that the system had more options). Each site's detention facility was carefully inspected and deficiencies were corrected so that confined youth were held in constitutionally required conditions. Efforts to reduce disproportionate minority confinement, and to handle "special" detention cases (e.g., probation violations or warrants), were also undertaken.

In practice, these reforms proved far more difficult to implement than they are now to write about. We began JDAI with five sites: Cook County, IL; Milwaukee County, WI; Multnomah County, OR; New York City; and Sacramento County, CA. Just about when implementation activities were to begin, a dramatic shift occurred in the nation's juvenile justice policy environment. High-profile cases, such as the killing of several tourists in Florida, coupled with reports of significantly increased juvenile violence, spurred both media coverage and new legislation antithetical to JDAI's notion that some youth might be "inappropriately or unnecessarily" detained. This shift in public opinion complicated matters in virtually all of the sites. Political will for the reform strategies diminished as candidates tried to prove they were tougher on juvenile crime than their opponents. Administrators became reluctant to introduce changes that might be perceived as "soft" on delinquents. Legislation was enacted that drove detention use up in several places. Still, most of the sites persevered.

At the end of 1998, three of the original sites—Cook, Multnomah, and Sacramento Counties—remained JDAI participants. Each had implemented a complex array of detention system strategies. Each could claim that they had fundamentally transformed their system. Their experiences, in general, and the particular strategies that they implemented to make their detention systems smarter, fairer, more efficient, and more effective, offer a unique learning laboratory for policymakers and practitioners who want to improve this critical component of

the juvenile justice system. To capture their innovations and the lessons they learned, we have produced this series of publications—***Pathways to Juvenile Detention Reform.*** The series includes 13 monographs, all but two of which cover a key component of detention reform. (As for the other two monographs, one is a journalist's account of the initiative, while the other describes Florida's efforts to replicate Broward County's reforms statewide.) A complete list of the titles in the ***Pathways*** series is provided at the end of this publication.

By the end of 1999, JDAI's evaluators, the National Council on Crime and Delinquency, will have completed their analyses of the project, including quantitative evidence that will clarify whether the sites reduced reliance on secure detention without increasing rearrest or failure-to-appear rates. Data already available, some of which was used by the authors of these monographs, indicate that they did, in spite of the harsh policy environment that drove detention utilization up nationally.

For taking on these difficult challenges, and for sharing both their successes and their failures, the participants in the JDAI sites deserve sincere thanks. At a time when kids are often disproportionately blamed for many of society's problems, these individuals were willing to demonstrate that adults should and could make important changes in their own behavior to respond more effectively to juvenile crime.

Bart Lubow
Senior Associate and Initiative Manager
The Annie E. Casey Foundation

Notes

[1] In 1985, white youth were detained at the rate of 45 per 100,000, while African-American and Hispanic rates were 114 and 73, respectively. By 1995, rates for whites had decreased by 13 percent, while the rates for African-Americans (180 percent increase) and Hispanics (140 percent increase) had skyrocketed. Wordes, Madeline and Sharon M. Jones. 1998. "Trends in Juvenile Detention and Steps Toward Reform." *Crime and Delinquency, 44(4)*:544-560.

[2] Burrell, Sue, et. al., *Crowding in Juvenile Detention Centers, A Problem-Solving Manual*, National Juvenile Detention Association and Youth Law Center, Richmond, KY, prepared for the U.S. Department of Justice, Department of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (December 1998), at 5-6.

Chapter 1

WHY FOCUS ON UNNECESSARY DELAY?

The point at which delay jeopardizes justice is destructive or dysfunctional. The point at which delay expedites justice is desirable.—E. Friesen, *Managing the Courts*

Any effort to reduce the number of juveniles detained pending disposition of a delinquency charge has two options: to either lower the number of juveniles admitted or to lessen the length of detention. Although simple to state, to bring about either change is enormously complicated. This document will describe how the lengths of stay of detained juveniles were reduced by changing case processing procedures.

Delay in criminal case processing has concerned criminal justice reformers for decades.[1] But, as Professor Friesen pointed out in his seminal work on court management almost 30 years ago, delay is too often equated with disruption in the justice system. In fact delay—orderly, rational delay—can enhance the justice process. It is unnecessary delay, when cases stall simply because of bureaucratic inefficiencies, that is the focus of this document.

In recent years, the time it takes to dispose of delinquency cases has dramatically increased. A 1996 study of nearly 300 juvenile courts found that the median time needed to move delinquency cases through the court increased 26 percent between 1985 and 1994. In the largest cities included in the study, half of all the formally charged delinquents waited more than 90 days for a final court disposition, the maximum time frame recommended in national standards.[2] This increase has forced those in the juvenile justice system to scrutinize how they process cases before disposition.

Slow processing can greatly increase the use of juvenile detention beds even though the number of admissions has decreased. Table 1 demonstrates this with data provided by the National Council on Crime and Delinquency (NCCD) as part of their evaluation of the Juvenile Detention Alternatives Initiative (JDAI). It focuses on Cook County, Illinois, transfer cases—cases where juveniles are charged

as adults. These juveniles are held with other detainees in the Cook County juvenile detention facility. The table provides the number of admissions for transfers in the calendar years 1992 and 1996; the proportion of total admissions that transfer cases comprised; the average lengths of stay (ALOS); and finally, the number of detention beds needed. Note that even though the number of admissions for transfer cases was lower in 1996 than in 1992, the beds required for such cases increased significantly, from 126 to 153.

TABLE 1
COOK COUNTY
ADULT TRANSFER CASES: 1992, 1996

Year	Admissions	% of Total Admissions	ALOS (in days)	Beds Needed
1992	407	5.2%	116.5	126
1996	364	4.2%	153.2	153

Source: National Council on Crime and Delinquency.

But the effects of unnecessary delay in case processing are not limited to detained cases:

- For juveniles released pending adjudication of their charges, unnecessary delay correlates with increased rates of failures to appear (FTA), the bane of effective court process. As FTA rates increase, the calendar system of the court—calls for witnesses, delivery of evidence, jury calls—falters, and scheduling efforts have to be repeated to the distress (and expense) of all. Victims are denied their right to a reasonable hearing in a reasonable amount of time as dockets become simply unmanageable.

- Alternative programs specifically designed to deal with the pretrial population of juveniles suddenly see the average length of stay increase, putting pressure on both budgets and staff. More significantly, these increases reduce the number of juveniles who can be admitted to programs, since each new admission now remains longer. Finally, years of program experience confirm what we intuitively know: The longer youth are at risk of program failure, the greater the failure rate for the program. Long case processing times, therefore, can distort program outcomes and thus undermine support for alternatives to detention.

- Equally important is the impact of delay on the juvenile. Since adolescents experience the passage of time differently than adults, the connection between a

sanction and a wrongdoing quickly fades for a juvenile as the time between the two increases.[3] In her discussion of juvenile case procedures, Anne Rankin Mahoney identifies four distinct perspectives on time in the juvenile process: court time, case time, child time, and intervention time. These differing perspectives provide different vantage points from which to assess a court's performance, she argues. By considering the four kinds of time, a court "manages its daily calendar so that it can move individual cases expeditiously from initiation to conclusion with a series of appearances that accomplish their purpose and move the process to its next stage, while taking into consideration the individual treatment needs of the juvenile and the security concerns of the community." When an arrest for an alleged offense is followed by months of inaction before disposition, the juvenile will fail to see the relationship between the two events. Any lesson that might be learned about accountability and responsibility is lost.[4] If the juvenile is detained, there is the additional potential for personal harm. The juvenile faces any number of undesirable possibilities being locked up in crowded facilities. A 1994 Office of Juvenile Justice and Delinquency Prevention (OJJDP) study, describing conditions of confinement in juvenile facilities, found that the rate of juvenile and staff injuries was higher in crowded facilities, as was the imposition of short-term isolation. In addition, high turnover rates (more common in crowded facilities) were accompanied by higher rates of suicidal behavior. (See also *Improving Conditions of Confinement in Secure Juvenile Detention Centers* in this series.)

There are also other, more pragmatic reasons for identifying and reducing unnecessary delay. First, as a population reduction strategy, reducing the length of stay of juveniles detained pending disposition is often more palatable and less risky than reducing admissions or increasing the number released. Second, as exemplified in the table above, the net reduction of bed days in the facility can be considerable. Third, correcting the problem requires change only by adults; it is essentially an administrative action, not predicated on changes in behavior by the juveniles involved. Fourth, efficiency in processing is not based on reevaluating the case itself; it simply requires that various actions take place in a more timely manner.

Finally, detention is an expensive option. Unnecessary detention means maintaining or expanding a secure facility that must provide food, clothing, shelter, and appropriate schooling. Given the expense involved in providing such housing, it behooves the juvenile justice system to carefully examine use of this scarce resource. Again, that goal can be achieved only by decreasing the number of juveniles entering the detention facility[5] or by decreasing the length of stay.

Notes

[1]Church, Thomas Jr., et al. *Justice Delayed: The Pace of Litigation in Urban Trial Court*. National Center for State Courts, 1978.

[2]Butts, Jeffrey, et al. *Waiting for Justice: Moving Young Offenders Through the Juvenile Court Process*. National Center for Juvenile Justice, 1996, p. 5.

[3]Mahoney, Anne Rankin, "Time and Process in Juvenile Court," *The Justice System Journal*, Vol. 10, No. 1 (1985).

[4]Butts, Jeffrey. *Waiting for Justice*, 1996, p. 4.

[5]For more information on reducing admissions, see *Controlling the Front Gates: Effective Admissions Policies and Practices*, in this series.

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Chapter 2

GUIDING PRINCIPLES

A number of principles were inherent in all of the case processing reforms undertaken by the JDAI sites. They included:

- **The end goal is not speed; it is improved justice.** All of the sites' experiences underscored the pitfall of speeding up case processing as an end in itself; in fact, some of the JDAI sites actually have added new hearings as a result of their self-examination of procedures. The key was eliminating wasted time, whether time between events—court hearings, generally—or the time taken for the events themselves. A just system is a more efficient system and usually reduces detention as a by-product.

- **Custody levels alone should not drive case processing changes.** All of the JDAI sites sought to reduce detention populations safely and appropriately. But case processing reforms should be undertaken to improve the justice process overall and not just to reduce detention. Success in improving case processing should decrease the unnecessary use of detention beds while also providing other benefits to the courts, judges, victims, defense, prosecution, and youth.

Success in improving case processing should decrease the unnecessary use of detention beds while also providing other benefits.

- **The use of every detention facility bed is worth scrutinizing; every bed day is worth saving.** JDAI sites, like most jurisdictions, began their work on case processing looking for a "silver bullet," a single change (or group of changes) that would dramatically impact lengths of stay and, therefore, facility population levels. Practice, however, taught a more sober lesson: To build a more efficient system, everyone must act as if each bed day is valuable, that all unnecessary bed use should be of concern, and that attention to individual cases is always important. This perspective is critical to altering the culture of the system. Otherwise, it will be difficult for staff at any level to ask "Why do we do this?" or "How can we speed this up?" Embracing the principle that "every bed day is worth saving" helps to ensure that no children "fall through the cracks" or remain in detention a day longer than required.

- **No court hearing should be scheduled without a purpose.** Once sites became involved in case processing analyses they quickly identified court hearings that were routinely scheduled but whose purpose was not clear. In other instances, the purpose of a scheduled hearing was clear but rarely accomplished at the first call, thus requiring a second or even third scheduled date. So, while one effort sought to reduce unnecessary time between scheduled court events, another complementary effort scrutinized the substantive purpose of all hearings.

Chapter 3

OPPORTUNITIES FOR CASE PROCESSING REFORM

There are specific points in processing a delinquency case where unnecessary delay might occur. This section will examine each of these in chronological order, beginning with post-arrest. In each instance, examples from JDAI sites to reduce delay are offered.

A. Post-Arrest

When a law enforcement officer takes custody of a child for an alleged offense, there are two options: either to turn the juvenile over to the detention facility or to release the juvenile to the custody of a parent or approved adult with a notice to appear in court on a specific day.[1] If detained, the child is held to appear in court, generally within 24 hours. If released, time is often set aside to allow the probation department to screen the case before forwarding it to the prosecutor's office.

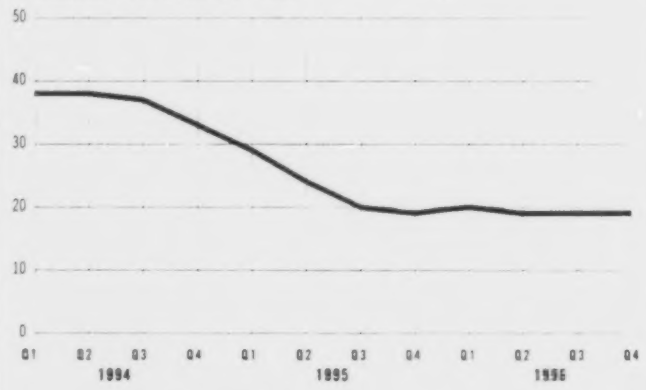
In many jurisdictions the time between the arrest and scheduled court date for those not detained is lengthy, taking weeks and even months. Such delay inevitably increases the likelihood of failure to appear.[2] This generally means that, if re-arrested, the juvenile will automatically be detained.

Harder to measure, but equally important, is the message or signal that is sent to the child when nothing happens within a reasonable time following arrest. The child can conclude that the incident itself is not serious or that the system doesn't take it very seriously. On the other hand, the child—particularly a first offender—might be so anxious during the extended period that passes before a hearing that both the home situation and school are disrupted.

In Cook County the juvenile court was plagued with a very high rate of FTAs for first appearance. In fact, an analysis of children detained until initial appearance revealed that a significant portion were being held because of outstanding warrants for FTA, with the failures often having occurred at the first appearance. The Executive Committee of the detention reform initiative, including the Chicago Police Department, began an analysis of the time—often eight weeks or more—that routinely passed between a juvenile's arrest and the first scheduled

court date. Together, the police, the probation department, and the judges adopted a plan that cut the time to three weeks for the first scheduled appearance. The result was a lower rate of failures, allowing for a more orderly court process and reduced detention admissions.

FIGURE 1
COOK COUNTY
QUARTERLY FTA RATE, 1994-1996



Source: Clerk of the Court electronic docket.

Another reason for the decrease in FTAs was a change in where children first reported to the juvenile court. Previously in Cook County, out-of-custody first appearance cases were scheduled to appear in their appropriate "geographic court."[3] Besides the problem of high rate of FTAs described above, the geographic courts on any given day were unaware of how many cases they might receive. Prosecutors were often unfamiliar with the case until the file appeared in the court; defense was not appointed until the actual hearing began. As a result, little was accomplished at the first appearance except scheduling a continuance date.

The Presiding Judge of the Juvenile Court decided to change the process. First, he established a single, first appearance court where all out-of-custody first appearances were heard. Second, and perhaps most important, he assigned himself to the new court and made it clear that cases that could reasonably be disposed of at that point would be. By establishing the precedent in the new court that the judicial officer would be involved in—and in fact encourage—plea discussions, the chief was able to significantly reduce the number of cases that were continued and sent on to the geographic courts.[4]

According to county officials, the key to the two interwoven efforts was the existence of the Executive Committee of the detention reform initiative. Frank discussions ensured that all participants understood the problem and agreed to the

change. "No one could have done this on his own" said the Presiding Judge. "There are too many other agencies affected"

B. At the Initial Appearance

At the first court appearance, three procedures can affect efficient case processing: speedy review of the substance of the case by the state's attorney, timely appointment of counsel, and calendaring for future court dates.

Speedy Review

In most instances a seasoned prosecutor can quickly review a case and predict both the likelihood of successful prosecution and probable disposition (e.g., incarceration or community supervision). Effective pre-screening can cull from the docket those charges that are not sustainable or that deserve to be reduced. Such screening can also ensure that high-risk cases are not devalued. This type of early screening can be beneficial for both in-custody cases and cases where the child was released following arrest.

1. **In-Custody Cases.** Multnomah County, Oregon, has long had speedy disposition for both adult and juvenile cases. All custodial cases are reviewed by the prosecutor within 24 hours of the arrest. This is possible because police are required to submit their arrest reports when they drop off the child before leaving the detention center. The report contains all the information needed by the prosecutor to decide whether a petition should be filed; in most instances it is all the office will ever receive about the incident.

Besides a speedy review, the Multnomah prosecutor's office also requires a more substantive review. It demands a higher standard to determine legality than most prosecutors. The order to detain must be based on a standard of "beyond reasonable doubt" rather than "probable cause." In a letter describing the process, the Senior Deputy District Attorney for the Juvenile Court explained, "To issue a case on probable cause alone, hoping the case will improve into a winnable prosecution, almost never works. The result of such a practice is time, money, and energy wasted on weak cases; a high rate of dismissal; and a high rate of losses at trial . . .

As a result [of this higher charging standard] the vast majority of our cases plead out, the few that go to trial are won, and very few are dismissed or lost at trial."[5]

Multnomah County also improved the initial appearance process by introducing a "pretrial placement planning meeting" before the initial appearance. The prosecutor's office has established a stringent review and filing process (described above) that allows it to know before 11:00 a.m. which cases it intends to file. By 11:00 a.m., it is able to provide defense counsel the police report and any other information available (under the prosecutor's policy of open and early discovery).

The parties have instituted an 11:30 a.m. meeting before the initial court appearance scheduled for early that afternoon. Present are representatives from the prosecutor's office, the defense, and the probation department. The intent of the meeting is simple: to determine what, if any, conditions (e.g., house arrest) are needed to produce a consensus in favor of release. The prosecutor is also able to propose a preliminary plea agreement, probation can provide information obtained when the child was screened at intake, and defense can provide any information that might be relevant.

The results are impressive. Even though the parties are not bound to reach an agreement, they estimate that they agree on the next step "about 95 percent of the time." In many instances a direct result of the pretrial placement planning meeting is that the child is released at the initial appearance with specific, agreed-upon conditions. The process also has substantially reduced court time for initial appearances. While the judicial officer need not concur with the agreement reached by the parties, probation department data indicate that the court has gone along with the 11:30 agreement in 98 percent of the cases.

2. Out-of-Custody Cases. In Milwaukee County, Wisconsin, state statutes require that juveniles who are detained must have their charges screened by the district attorney's office within 24 hours. However, shortly after beginning work with the JDAI initiative, court officials found that placing juveniles in a non-incarcerative setting early on eliminated the 24-hour review requirement. This caused other problems: specifically, FTAs and re-arrests in cases that might not even have been prosecuted. Based on an examination of their own cases, the prosecutor's office

implemented a 24-hour review even for juveniles not detained. The results have borne out the wisdom of their decision: from September 1994 through 1997, 2,164 juveniles were screened into alternative programs; but 360 youths—an additional 17 percent—who would have been released to a program prior to the office's change in policy, were not petitioned at all. Although it is difficult to say how many failures such a change eliminated, system participants believe the time involved in the screening is offset by benefits both to the system and to juveniles whose cases are speedily and properly disposed.

One of the more vexing problems that can decrease efficiency is the untimely assignment of defense counsel.

Appointment of Counsel

One of the more vexing problems that can decrease efficiency is the untimely assignment of defense counsel. In too many instances defense is appointed literally at the initial hearing itself. When this happens defense lawyers cannot argue effectively whether the juvenile can be safely released pending disposition, or rationally discuss any plea offer that the government might make. As a result, cases must be continued, sometimes for weeks.[6]

In Cook County, the Public Defender's Office has traditionally stood in as counsel at initial detention hearings, but due to scheduling, these lawyers rarely interviewed the detainees prior to the hearing itself. As a result, arguments as to appropriate release conditions, as well as possible pleas, could not be made at the hearing. With JDAI support, the Public Defender's Office hired two paralegals, the Detention Response Unit (DRU), to interview juveniles prior to their initial appearance. The interviews focus on information that might increase the likelihood of release pending trial: Does the juvenile have ties in the community? Is a parent or responsible adult expected in court? Have there been prior juvenile court appearances? Is the juvenile currently enrolled in school? By gathering and quickly verifying information about the juvenile detainees, the paralegals are able to construct alternative release plans for the public defender to propose at the initial hearings. The impact has been measurable. In the six months between December 1997 and May 1998, the DRU interviewed more than two-thirds of the detained juveniles. More important, 49 percent of those interviewed were released from

detention because of the alternative plans submitted to the court. The experience was sufficient to justify to the County Board that the paralegal positions be included in the Public Defender's regular budget appropriation.

Calendaring

At the initial appearance, the court establishes the next court date, the time when the substance of the case will be addressed. It benefits all parties that this court hearing be both soon and substantive. If the next date is unnecessarily delayed, children in custody are punished, even though the case may be dismissed. For those not held in custody, the delay can also be disruptive, for the reasons described in Chapter 1. In addition, research demonstrates that failures to appear for court can be reduced by decreasing the time between court events.

In Cook County all in-custody cases are heard in one court for the initial appearance, then scheduled out to the appropriate geographic court for adjudicatory hearings. It was standard practice to schedule all cases 15 days after that initial appearance, no matter which geographic court would receive the case. Since the juveniles were detained during this period, this procedure accounted for an enormous number of detention bed days. After discussions with his fellow judges, the Presiding Judge again took action. "We just changed it," he said, "by establishing that the next scheduled date would be the following day (after the detention hearing) for a status call."[7] The result is that a number of cases are disposed of at the status hearing the next day; the rest of the cases can be reasonably scheduled, usually a few days later. All parties now know about the case, and a reasonable next date can be scheduled, increasing the likelihood that the case will be disposed of at that point. A significant number of detention bed days are saved.

Research demonstrates that failures to appear for court can be reduced by decreasing the time between court events.

In Sacramento, a simpler problem—once it surfaced—required a simpler remedy. The newly appointed chief prosecutor for the juvenile court was told that the court as a rule did not schedule more than 10 out-of-custody cases on a particular calendar. When he discovered that the courts sometimes completed their cases early with no additional ones available to hear, he went to the Presiding Judge, outlined

the issue, and recommended dropping the 10-case limit. The Presiding Judge agreed, and the result has been less "dead time" for courts and more expeditious dispositions.

C. Pending Adjudication

While a case is pending, there are three common ways to reduce unnecessary delay: more timely hearings, notification, and reduced continuances.

Timely Hearings

Some courts schedule specific days for certain types of hearings, such as transfers, violations, or placements. Although this is sometimes appropriate and efficient, jurisdictions must regularly assess whether such scheduling is always effective. Often, such court processes delay actions for no good reason.

In Multnomah County, for example, a court assignment process unintentionally added detention time for children brought in on probation violations. Such cases were calendared only one day a week, leaving some juveniles in custody for seven days before even seeing a judge. Now all probation violation hearings are held within three court days. "Basically, we just changed it," remembers Judge Linda Bergman, who was the presiding juvenile court judge at the time. "It's one of those things that surfaces when you take the time to step back and look at your system, you see things that have always been done a certain way and you don't question it. This cut a whole lot of time off. And it didn't cost us a single solitary thing."

Notification

One of the easiest ways to disrupt a calendar is to have a released juvenile fail to appear; one of the easiest preventions of such disruption is to ensure that the juvenile is notified of the court date. In many instances, cases are continued without a set date for the next hearing or, when a date is set, reminders are not routinely sent to the juvenile's home.

Prior to JDAI, Cook County juveniles released pending disposition of their cases were not notified of their next court dates. With the introduction of the changes sponsored by the Executive Committee of the detention reform initiative, some were concerned that increasing the number of juveniles released from detention would result in higher rates of FTA. In fact the opposite has occurred in Cook

County, and the introduction of a simple notification system has played a major role. In the first half of 1994, released juveniles had a 38 percent FTA rate in the court. Exactly one year later, during which time the notification process was introduced, the FTA rate dropped to 20 percent. (See Figure 1 on page 17.) While part of the decline no doubt results from new alternatives to incarceration and more timely court scheduling, probation staff in the county believe that the notification process is a key factor in the dramatic reduction.

Continuances

Finally, there is the relatively unusual option of judges deciding to limit the number of continuances allowed. This is often a difficult option, not because of additional work or cost, but because the judicial officer is acting in the face of the local legal culture, one of the strongest factors affecting case processing in criminal and juvenile courts.[8] But when limiting continuances is successful, the time saved for the court and for youth in detention can be substantial.

In Cook County, for example, one of the geographic courts (the trial courts) has established a presumption against continuances. In this court it is now understood that continuances are rare and are never given on the day of trial. The judge's concern is primarily for the family of the juvenile and witnesses. "Why should they have to give up a day of work, come all the way down here to court, wait around, then find out that the case is going to be continued? It's not fair."[9] While other judges on the juvenile bench monitor their calendars differently, both the state's attorney and the public defender know the procedures in this court and comply with the judge's expectations. The judge will, with cause, approve continuances until the day before trial, with the understanding that family and witnesses will be contacted. Although not yet able to provide data that verify the impact of the court's practice regarding continuances, system participants agree that there is less time to disposition in this geographic court.

A similar result was achieved in New York City, albeit in a different way. In four of the city's boroughs, special courts have been established within the adult court system to adjudicate Juvenile Offender (JO) cases, though involving juveniles tried as adults because of the seriousness of the charges.

Casey Foundation representatives, working with the Mayor's Office, initiated a series of meetings involving the four judges specially assigned to each of these courts (called "Youth Parts"). Although the four judges had similar caseloads, they had never had the opportunity to discuss their individual procedures. When introduced to alternative, successful processing techniques used by a peer, the judges sometimes adopted each other's techniques. The immediate result was fewer continuances in two of the four courts, resulting in a reduction in the average length of stay in detention. The opportunity to discuss with peers and learn how similar cases and problems had been addressed resulted in a significant decrease in the average length of time to disposition in these courts.

D. Adjudication to Disposition

One of the anomalies of both the adult criminal and the juvenile delinquency systems is the delay often institutionalized between adjudication of the charge and the appropriate sanction or court action. The delay often results from the time devoted to the dispositional report. Frequently, this is an appropriate delay, providing time to interview the child, verify community support, and prepare a prescriptive document to guide the judicial officer in determining disposition.

Unnecessary delay often occurs, however, when:

- fixed time frames are established for dispositional report preparation. In some jurisdictions, four weeks or more are automatically set aside for all such reports. Yet in some cases adequate information already exists about the child and his or her background to allow preparation of a complete report within days.
- there is no distinction between the scheduling of reports for in-custody versus out-of-custody cases. Under most circumstances, systems should focus more quickly on in-custody cases, particularly when a non-incarcerative placement is likely.
- there is an agreed-upon disposition, typically as part of a plea bargain, making the report less critical.
- there is only a single, lengthy format for preparing dispositional reports, instead of the now increasingly used basic format with optional modules to be completed as need dictates.

- reports arrive too late to the respective parties to allow for any action except a request for a continuance to review the report.

A variation of this problem arises when psychological assessments are requested. Although clearly appropriate in certain cases, in some jurisdictions the request has become a pro forma action, which merely expands the time needed to complete the dispositional process. The problem is frequently further exacerbated when resources for the assessment are limited. For detained children, this lack of resources often results in longer lengths of stay.

In Multnomah County, the Metropolitan Defenders Service, one of the contract organizations that regularly defend juveniles, has addressed disposition delays by instituting some changes. The agency now initiates social investigations of all its clients at the beginning of the court process, rather than after adjudication. As a result, they are often ready to discuss appropriate placement at the adjudication hearing, rather than simply starting the investigative process.

Systems should focus more quickly on in-custody cases, particularly when a non-incarcerative placement is likely.

When implementing Detention Early Resolution (DER; see p. 27) in Sacramento County, California, the court realized that any chance that defense would agree to settlements depended largely on the recommendation the Probation Department was likely to make following adjudication, a recommendation not available in the time frame set by the court. Similarly, the prosecution was reluctant to make a firm plea offer without knowledge of what the probation report might reveal. The parties finally agreed that not all the report information was necessary for a plea negotiation; the probation department, in turn, developed a new short form that incorporated what the parties needed for plea negotiations but with fewer details and analyses. Testing confirmed that the new report would significantly decrease the time for preparation and thus speed dispositions. Critical to the process was ensuring that the parties—the defense, the prosecution, and the judge—agreed on what was essential for inclusion in the new short form and that any party could require a full report in any instance deemed necessary.

E. Disposition to Placement

Perhaps the most troubling instances of processing inefficiency involve cases where a child is left in the detention center awaiting transfer to the court-ordered placement. In many jurisdictions such cases take inordinate amounts of time, because of limited space in a particular type of treatment facility; or inadequate follow-up to ensure quick transfer when appropriate treatment "slots" open up; or inattention by the court, defense counsel, or probation, which leaves the child simply languishing. The result is a sad anomaly: children held in conditions that are often the exact opposite of those ordered by the court and prescribed by careful professional analysis as critical for the child's development. In extreme cases the child may be detained longer than the case took to process and, in some instances, longer than the actual placement.

In *Special Detention Cases: Strategies for Handling Difficult Populations* (in this series), David Steinhart identifies five factors that unnecessarily delay placing adjudicated juveniles: few alternatives to out-of-home placement; slow, inefficient, or poorly coordinated placement practices; systemic or statewide shortages of placement options for juveniles; placement failures that recycle to detention; and delays in transfer to state training schools. Steinhart describes a number of strategies to reduce detention time for children with out-of-home placement orders. They include the following:

Perhaps the most troubling instances of processing inefficiency involve cases where a child is left in the detention center awaiting transfer to the court-ordered placement.

- conducting caseload analysis of post-disposition minors in detention;
- developing programmatic alternatives to out-of-home placements;
- increasing placement speed and efficiency by imposing detention time limits, improving pre-placement assessments, conducting earlier dispositional planning, and improving data collection procedures;
- expanding placement variety and capacity; and
- focusing on placement failures.

Between 1990 and 1996 more than a third of all minors placed in residential care in Sacramento County were returned as failures; in the past three years—1994 to 1996—the percentage of failures reached nearly 50 percent. The county targeted these program failures by adding two additional staff to find appropriate placements and by establishing a special court calendar to reduce detention time and expedite re-placement.

New York City had some success in dealing with the pending placement population by targeting "state-ready" juveniles, children ordered to state placement who remained for lengthy periods in the city detention facility awaiting transfer. As a result of negotiations between the state and the city, a formal agreement was reached whereby the state agency agreed to take these youth within a set period of time. As a result, the average length of stay for detained children awaiting transfer was reduced significantly.

F. Sacramento's DER Innovation

Without a doubt, the most ambitious JDAI case processing innovation was Sacramento County's "Detention Early Resolution" effort. Having reduced detention admissions rates without dramatically affecting average daily population, Sacramento officials turned to length-of-stay reductions in order to get the Juvenile Hall population below capacity. The impetus for DER came from an unexpected source—the chief juvenile prosecutor.

> *"I was struck by the problems in the juvenile prosecutor's office...the number of cases compared with the number of attorneys, and the time frames within which we had to be ready. We were working up the case of every detained juvenile as if it were going to trial, since detention case pretrial hearings were held on court day 13, and trials on day 14. Witnesses had to be subpoenaed, lab reports obtained, and investigations made, so that if no settlement occurred at the pretrial hearing, we had to be ready for trial two days later. All lead people in the system were extremely concerned about the chronic overcrowding at the hall. As a prosecutor, I recognized that juveniles were locked up longer than they should be in a non-treatment facility. So I thought...let's advance the pretrial hearing date."*

From these straightforward concerns emerged a major shift in how detained cases would be handled. Whereas California statutes required that detained cases be adju-

dicated within 15 court days of the detention hearing, with disposition scheduled 10 court days later, Sacramento decided that it might be able to resolve "routine" cases in much shorter periods, within as few as five days. The prevalence of plea bargains revealed that the parties to the adversarial system understood quite well what was likely to happen in many cases brought before the court. But everyone was accustomed to waiting until day 13 or 14 before conferencing a case (at which point plea bargains were discussed for the first time). And normal court procedures called for the actual hearing date to be set in accordance with the statutory requirement (i.e., day 15 following the detention hearing). Might it be possible to reach the same conclusions quicker, thereby reducing the lengths of stay in Juvenile Hall?

The court, probation, prosecution, and defense began to review and negotiate what would have to change for detained cases to be resolved more quickly. Obviously, there would have to be scheduling changes so that court appearances occurred more quickly, but that was the easiest hurdle to overcome.

The defense would not be able to consider plea offers within these shortened time frames without complete and immediate discovery. Otherwise, lawyers for the alleged delinquents would have no way of knowing whether the charges against their clients were sustainable. To address this problem, the district attorney agreed to turn over all police and lab reports, witness lists and statements, and related evidence right away. In fact, to ensure that such discovery could occur this rapidly, a paralegal was hired to collect the necessary materials and deliver them to defense counsel.

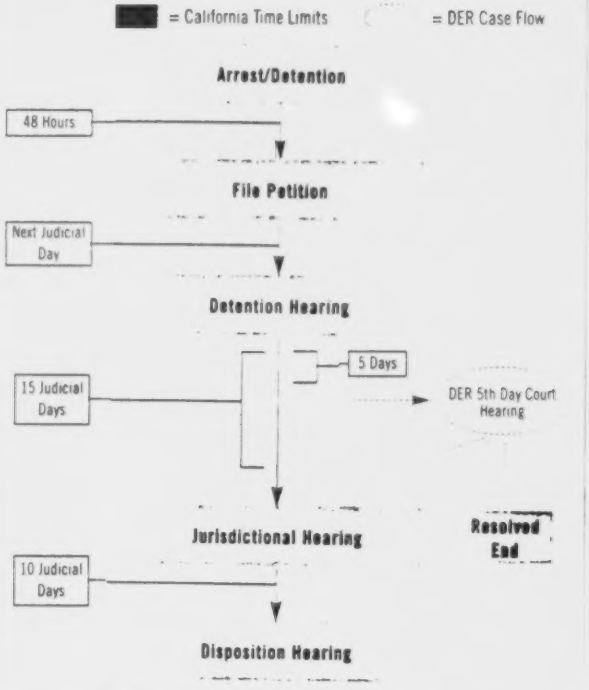
But knowing the evidence was only one part of the puzzle. The other major piece was figuring out an appropriate disposition. Without a more timely probation report, prosecutors would not be able to make a plea offer, defenders could not advise their clients to take the plea, and judges would not be able to determine if they thought that the negotiations had produced the right combination of sanctions, supervision, and/or treatment.

To overcome this dilemma, probation officials designed a "short-form" report to replace the more customary 10-15 page document that typically took seven hours of an investigator's time to prepare. The short-form report consists of about four pages of narrative, a face sheet, and various attachments. In addition to basic iden-

tification data on the juvenile and his or her family, the new report presents information on the offense, status of court proceedings (and probation adjustment, if relevant), home and school circumstances, any drug use, and "unique or important issues." The short-form report concludes with explicit disposition recommendations, including special conditions of probation that should be ordered if probation is granted. For detained cases, these reports are completed in 4.5 hours and are generally deliverable to the court within three or four days following the detention hearing.

FIGURE 2

CALIFORNIA JUVENILE JUSTICE SYSTEM STATUTORY TIME LIMITS
For Felony or Misdemeanor in Custody Cases and
SACRAMENTO COUNTY DER CASE FLOW



Cases eligible for DER are scheduled for their next hearing five court days after the detention hearing. (See Figure 2 for a comparison of California's statutory case processing requirements to DER's time frames.) Prosecutors review the faster, shorter probation report and make their best plea offers to their defense counterparts, usually the day before the hearing. Defense lawyers, having reviewed the evidence, probation report, and plea offer, discuss the cases with their clients and their parents. If an agreement is reached, adjudication and disposition occur at the DER hearing; if agreement is not reached, the case is adjourned for an adjudicatory hearing 10 days later. Case processing times for detained cases resolved through DER are, therefore, reduced from approximately 25 court days (following the detention hearing) to only five days. Cases that are not resolved do not necessarily take more time than was true under the old system, but they do require an extra court hearing. However, because

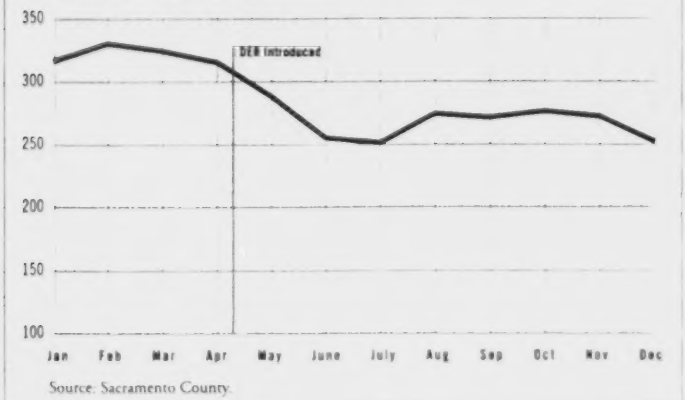
Sacramento has been able to resolve the majority of DER-eligible cases at the first DER hearing date, the courts, overall, are actually saving on total hearings held.

DER produces "wins" for just about everyone. Prosecutors, able to resolve many cases through DER, can now focus their trial preparation resources on complicated cases that are likely to be contested. Defense attorneys get timely open discovery, the best plea offer at the outset, and a chance to have their clients released from detention much earlier than would otherwise happen. They, too, avoid unnecessary trial preparation, just like the prosecutors. The courts are able to resolve the majority of cases more quickly, without trials, and without unnecessary hearings. Probation saves significant staff time previously devoted to preparation of longer dispositional reports. Indeed, short-form reports have now become the norm in Sacramento County. As a result, the probation department has redeployed staff from investigations to field supervision, thereby reducing caseloads and increasing the intensity of supervision in certain cases. Youth benefit in two ways: they exit detention earlier and can fulfill dispositional obligations or begin treatment much quicker.

DER was implemented in April 1996. Over the remainder of the calendar year, 1,130 cases were slated for DER hearings, and 51 percent of them were resolved. (The percentage of successful resolutions has increased since then to 67 percent.) During DER's first nine months, the average daily population (ADP) in Sacramento's Juvenile Hall dropped dramatically, as Figure 3 reveals, in significant part because average length of stay in the hall dropped from 20 days to 16 days during this period. While the reductions in ADP cannot be attributed to DER exclusively, and though subsequent

FIGURE 3

MONTHLY AVERAGE DAILY POPULATION IN SACRAMENTO JUVENILE HALL, 1996



Source: Sacramento County.

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developments caused the ADP to rise again later in the initiative, the positive impact of this case processing innovation cannot be denied.

Notes

[1]In some jurisdictions the officer's discretion is affected by court or statutory limitations. An officer might be required to detain a juvenile charged with certain listed charges but is not allowed to for others.

[2]For discussion of FTA and its impact, see Kirby, Michael P., "Failure-To-Appear: What Does It Mean? How Can It Be Measured?" Pretrial Services Resource Center, 1979.

[3]In Cook County, juvenile court judges are assigned a specific geographic area of the county. All cases that originate in a particular geographic area are assigned to their "geographic court." In this way judges are immediately aware of re-arrests of juveniles they have released. In addition, judges gain a better understanding of the strengths and weaknesses of their geographic area.

[4]Soon after the Presiding Judge began the first appearance court, this author sat in to observe the proceedings. Twenty-one cases appeared for their initial appearance that day; with the Presiding Judge's assistance and support, 11 cases were disposed of and the remaining 10 sent to their respective geographic courts for hearings.

[5]Letter to the Honorable Frank Orlando, January 19, 1999, from the District Attorney for Multnomah County, Oregon, by Senior Deputy Amy H. Hehn.

[6]Puritz, Patricia et al., *A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1995, p. 9.

[7]Juvenile Detention Alternatives Initiative Workshop, "Reducing Lengths of Stay and Court Delay," May 14, 1998, p. 40.

[8]Church, Thomas Jr. et al., *Justice Delayed—The Pace of Litigations in Urban Trial Courts*, National Center for State Courts, 1978.

[9]Author's interview with Cook County juvenile court judge, March 19, 1998.

Chapter 4

SYSTEM-WIDE EFFORTS

In addition to addressing unnecessary delays described above, other broader efforts have proven effective. These include the creation of a position dedicated to tracking all cases in the system and expediting those suitable for earlier scheduling and release; efforts to focus specifically on transfer, or waiver, cases tried in adult court; and routine reviews of all detained cases.

A. The Expediter

The idea of an expediter has roots in efforts such as the movement in the 1980s to relieve jail crowding. Experts realized then that to keep jail populations down, one person should be assigned to constantly monitor the status of detained defendants.[1] Called variously "jail case coordinators," "population control officers," or "expediters," these individuals were quickly associated with reductions in detention levels. In recent years the idea for such a role has surfaced in the juvenile court system. Broward County, Florida, had such success with this type of position that legislation enacted in 1990 authorized all regions in the state's juvenile justice system to employ a "detention review specialist."

In 1994, Sacramento County introduced a "detention release expediter" position, funded as part of JDAI. The stated role of the position is "to reduce the unnecessary use of detention in Juvenile Hall by advocating alternative release programs for both pre- and post-dispositional detainees."[2] The county set three measurable goals for the position: (1) making at least 100 alternative recommendations per month to the court for pretrial detainees, (2) reducing the average time from disposition to actual placement by three days, and (3) reducing the average daily pretrial population at the hall by 10 beds.[3] The most recent data show even more dramatic results. Since the expediter position was established, the detained pretrial population has been reduced by an average of 37 beds.[4]

The current expediter, James Gray, is a probation officer with seven years' experience prior to assuming this position. "There was a benefit in that," said Gray. "I had already worked in every position in the office, so I knew a lot about what was done and why." Still it was a difficult transition. "You really have to be

self-motivated. Everything you do is basically challenging some decision someone else has made, so the work can be threatening to some. You just have to be diplomatic all the time." Key to success in the position, Gray pointed out, is the relationship the expediter develops with the judges. "Longer hours, a lot more pressure, you have to make tough decisions. Push, push, push," said Gray. "But it really does make a difference for a lot of kids in the end. You get kids out who don't need to be there," he concluded.

In Chicago, the probation department has established a similar position, called the "detention review supervisor." The incumbent focuses primarily on probation violation cases and employs a "step-down" model to reduce lengths of stay for VOP cases sanctioned to serve time in the detention facility. Depending on behavior and other circumstances, the supervisor will recommend to the court that the youth be moved to less restrictive detention alternatives. The impact has been substantial. Instead of locking up probation violators for 30 days, as had been the practice, the department can now vary the length of such sanctions and make better use of community-based programs.

Not all of the sites were successful in instituting expediters. New York City was plagued from the beginning by opposing opinions on how expediters could best benefit the system. As a result, screening instruments and the target population were not clearly defined, leading to confusion and exasperation for the expediter staff themselves. The result was that the positions had little impact on actual case processing time and were eventually discontinued.

B. Transfer Cases

Once transferred to the adult court, juveniles are routinely processed just like adults: bail is set, a lawyer is assigned, and continuances are granted. The extreme difference in time to disposition between adult and juvenile courts is the overriding problem. Since adult courts take significantly longer to dispose of cases than juvenile courts, detained juveniles can spend months—even years—awaiting disposition of their cases. But other problems also occur.

Usually the first decision of consequence in the adult system is the setting of bail. In most instances, the bail decision follows the recommendation of a pretrial

services agency. Such agencies routinely interview all adult arrestees, verify information about them, and provide the court with a report and recommendation as to release or detention pending disposition of the case. The recommendations are based on statutory guidelines and local research. Difficulties arise when the criteria for these recommendations are applied to children, since they are based on adult factors, such as length of employment. As a result, juveniles tend to be penalized unintentionally in the release versus detention decision by the application of adult criteria. Similarly, there are few adult alternative programs willing to work with children. Judges, therefore, face children without having appropriate information, relying on a recommendation scheme geared to adult arrestees, and having few alternative programs to take a juvenile pending trial.

If detained, the juvenile may be held in an adult institution or in the local juvenile detention facility, neither of which may be equipped to handle him or her. The adult jail, even with appropriate sight and sound safeguards, is dangerous for a child. Juvenile detention facilities, on the other hand, are rarely designed to hold youth for the length of time that adult charges routinely require for disposition.

Because of substantial differences in the case processing times for adult versus juvenile court cases, increasing the number of transfer cases held in a juvenile detention facility can have an immediate and dramatic impact on its population, a dilemma confronted by all JDAI sites. To respond to the unique issues raised by this population, the City of New York in 1992 established a Youth Part, a specialized court for juveniles being prosecuted as adults, first in Manhattan and subsequently in the other city boroughs. Until that time, children charged as adults were randomly assigned to any one of 57 judges. The Youth Part was established "to reduce the delays in Juvenile Offender cases (the local term for transfer/waiver cases), provide consistent sentencing, increase the number of children diverted away from costly incarceration, and reduce the recidivism rate."[5] These courts have been successful in reducing the time to disposition for JO cases, compared with regular adult disposition times.[6]

The second reason credited for the reduction in delays for these cases was the writing and disseminaton of *The Juvenile Offender Handbook*, a legal manual that

describes in detail the Juvenile Offender law and how it should be interpreted in day-to-day court proceedings. The handbook was a response to the large number of cases where delays were encountered simply because various stakeholders applied the law inappropriately, often precipitating lengthy, complicated efforts to resolve unlawful sentences or orders.

In Sacramento County, the presiding judge of the juvenile court addressed delays related to this population differently. In California, a fitness hearing must take place in the juvenile court to determine whether the child should be transferred to the adult system. The presiding judge took two steps. First, he claimed for himself all fitness hearings, thus assuring timeliness and a consistent outcome. Second, in cooperation with the public defender and the district attorney, he established a conference to be held prior to the fitness hearing. At this new proceeding the defense, prosecution and judge assessed these cases informally (including the likely outcome if the case were to be transferred). By conferencing such cases before the hearing, charges might be reduced or the district attorney could withdraw the request for transfer based upon clear signals that a hearing was unlikely to result in a finding of unfitness. Delay was reduced because fewer fitness hearings were held and because cases were adjudicated in the faster juvenile court.

One of the simplest but most effective innovations is the weekly detention case review.

C. Routine Reviews

One of the simplest but most effective innovations developed in Broward County, Florida, to reduce unnecessary delay is the weekly detention case review. Implemented in the late 1980s as part of its major detention reforms, these meetings continue today. Once each week, staff and supervisors from the Department of Juvenile Justice gather at the detention center and review the status of each child being held. If a case change is reported—for example, the reduction of charges by the state's attorney—that could affect detention status, action is taken. If a youth is awaiting placement, staff will be alerted once an opening arises. Even court dates are confirmed to ensure that no youth misses an appearance (and, therefore, stays in detention longer) simply because of poor record keeping. These weekly reviews continue in Broward County for one simple reason: they save bed days.

Notes

[1]Hall, Andy, *Alleviating Jail Crowding: A Systems Perspective*, Pretrial Services Resource Center, 1985, p. 15.

[2]Rubin, H. Ted, "The Ins and Outs of Detention: Sacramento Addresses Detention Center Overcrowding," *Juvenile Justice Update*, 1988.

[3]Ibid.

[4]Ibid.

[5]Letter to Bart Lubow from Judge Michael Corriero, March 30, 1998.

[6]The City of New York, Population Reports for December 1997.

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Chapter 5

LESSONS LEARNED

In reviewing their efforts to improve case processing, JDAI sites learned some common lessons:

- **Effective defense advocacy and improving case processing are not antithetical.** The defense has a critical role in accomplishing change, a role that at first may seem contrary to their primary responsibility.[1] Although other system participants may focus on time and dollar savings, the defense is ambivalent about the first and has little interest in the second. The defense's interests focus on what is best for the client. "I just don't think of myself as processing cases," said a defense lawyer from one of the JDAI sites. "I think of myself as representing clients. And I think others would agree that faster is clearly not always better." Site representatives said that for each case processing innovation that was considered, the defense's role in the discussions—supported by others—was to ensure that proposed changes would improve the lot of the children and real benefit would come for them. If not, the change would not be supported. "That was the beauty of the collaborative process," said a judge from one of the sites, in response to his public defender's early challenges. "We had a meeting about it, you brought up your point, and because you were persuasive in your advocacy, we're not [adopting the proposed change], which is the beauty of collaboration. People run ideas up the flagpole; other people say here's the good about it; here's the bad."

- **Local collaboratives that include all the system participants are critical for bringing about case processing changes.** Although extremely knowledgeable about their respective functions, system participants learned through collaboration how little they really knew about case processing. "We spent probably a dozen afternoon sessions just analyzing what we did and why we did it. That was worthwhile," said one public defender. From another site, a researcher commented, "What happened is that the focus shifted to, 'lets talk about what the process actually is' . . . and one of the things that struck me early on was how many of us were really unaware of what the other participants were doing in the case processing system." A prosecutor from one site summed up his experience:

"[Improving case processing] . . . is simply getting people together and realizing that you don't have to do it this or that way, just because it's been done that way for years. The key is to sit down and start talking about things. Then you realize there are some mutual advantages, advantages that can shorten the time frame, even if they don't actually resolve the case." The key reason the collaborative was critical to case processing reform was the shared credit—and blame—that resulted. Without the collaborative's support, one party was less likely to make effective changes if the other key parties didn't agree to go along. (See *Collaboration and Leadership in Juvenile Detention Reform* in this series for more on this topic.)

- **Timing can be everything.** Case processing probably shouldn't be the first target of change in detention reform since it requires the consensus of virtually all the system participants. JDAI sites had success by relying on their collaboratives to be the catalyst for change in case processing, but they assured such success by taking on other reform strategies first. "You have to build up trust before you take on case processing," said one presiding judge. A public defender agreed: "Case processing takes such a high degree of collaboration and confidence and trust among all the players . . . it probably would be easier to start with something that would be easy to achieve and build the collaborative from there."

Although collaboration is essential, leadership in changing case processing must come from the judiciary.

- **Judicial leadership is critical.** Although collaboration is essential, leadership in changing case processing must come from the judiciary. If a presiding judge announces a change in case processing, the adversarial parties may grumble, but they usually comply because they will be in court as required. But even though judges are key in managing and, therefore, improving case processing, they realize they cannot simply order change. Why? "Because I would issue an order that says that we're going to have two attorneys in court, and then I would find out it's going to fall apart," said one judge in describing the limits to his authority.

- **Data, data, data.** When they took on case processing changes, the JDAI sites quickly found that their data were either incomplete or conflicting; they were unable to agree as to whether a problem even existed, and if so, how to address it. In one of the sites, court officials in early discussions were virtually unanimous in their gauge of how long children were detained pending trial. A review of the facility population showed the perception to be inaccurate. In some site discussions, a lack of trust in the data provided by a particular agency further confounded communication. Once trust was established (for example, by using a consultant to obtain the data), the collaborative was able to pose questions to determine how long certain procedures actually were taking and practical discussions could occur. But without accurate, trusted data the sites merely discussed anecdotes rather than aggregates, precluding the possibility of system change.

- **Sites "win" when they improve case processing.** JDAI sites realized that case processing innovations could bring substantial rewards: case processing changes were likely to be sustainable, cost little to introduce, and have significant, measurable dollar savings for the court and the county beyond their immediate impact on detention use.[2] Perhaps more important, the improved system would be more sensible. The presiding judge of one of the sites said, "This whole case processing initiative talks about making a journey more efficient; for the kids, for the system, to ensure lack of re-offending, all of these things." Or, as another judge noted when talking about why his site should review charges earlier, "If my kid came in too late and was drinking or something, and I was going to put him on restriction, I wouldn't wait three weeks."

Notes

[1]Puritz, Patricia et al., *A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1995, p. 10.

[2]Schwarz, Ira et al., *Reforming Juvenile Detention: No More Hidden Closets*, 1994, Ohio State University Press, p. 100.

Chapter 6

GETTING STARTED

If sites wish to examine and improve case processing in their jurisdiction, all parties must be involved to recognize that there is a problem. A mechanism that has helped foster such recognition is the System Walk-Through. As many JDAI participants have indicated, agency officials and staff often know little about how the other parties in their system perform their duties. They rely on outdated information or anecdotes about unusual cases and are often unaware of case processing problems. Moreover, few question why cases are processed as they are. With a System Walk-Through, key parties within the system come together to describe, discuss, and question how cases are processed. With the help of a facilitator, the participants track a juvenile from arrest through placement, describing each step in the process, the options available, the time span between each step, and underlying policy reasons for each continuance. Misconceptions are aired and corrected, as parties describe how they or their staff process information, paper, and children.

By the time discussion reaches the placement stage, the participants will have learned much about how their system works; they also will have identified easily resolved problems. Disagreements will also emerge, often regarding numbers—either the number of detainees affected by a particular process or the time that elapses between two process steps. All data-based questions should be noted on a list for the group, as well as ways to obtain correct answers. Whose data will be used? Whose data is accepted? Can a sample be taken? These questions and responses to them will provide the agenda for follow-up meetings.

It is critical that the facilitator for the System Walk-Through be neutral. Although a system participant, such as a well-respected probation officer, defense lawyer, or court clerk, can sometimes be effective, often the participants will have difficulty putting aside the person's professional role and a feeling that the discussion may be affected by that person's background. A consultant, someone familiar with juvenile justice and experienced in facilitating group efforts, may be more effective.

A System Walk-Through will bring a clearer understanding about how cases are actually processed. It will also produce a list of case processing questions for

either participants or others to investigate and a date—preferably within two weeks—for the group to reconvene.

Either concurrent with the System Walk-Through or prior to it, the leaders should begin gathering basic aggregate data about the delinquency system. They should remember two things: First, much data is probably unavailable; second, they should not collect new data at this stage but instead simply gather what is easily obtained. For example, the administrator of the detention facility will have data about the detained population, such as how many youth entered in the past month and year, for what reason, etc. Courts will usually have data about cases (as opposed to individuals), such as the number processed, charges lodged, and conditions imposed. The court may not have information about the time to disposition, but the prosecutor or the defense may. Similarly, probation will generally have data that are both specifically and tangentially related to case processing. Remember, the goal is to cast as wide a net as possible and to collect and make available to the group participating in the System Walk-Through an inventory of the current aggregate data sources.

Once system participants reach consensus on how cases proceed through the system and collect data to support (or contradict) their findings, the group is ready to begin exploration of possible improvements. As a first step, the group must be provided benchmarks such as other jurisdictions' or national standard's descriptions of case processing time frames. Participants must realize that their current way of processing cases is not the only solution and that other jurisdictions have different procedures that may achieve justice more quickly. Ideally, the facilitator will present such examples for the group. The discussion allows an evolution from "why" things happen to "why not?" as well as an identification of ideas for change to be accepted or rejected by the group which, in turn, provides a specific agenda for reforms in case processing.

RESOURCES AND REFERENCES

Resources

For information about case processing innovations in specific JDAI sites, contact:

Cook County, IL
Michael Rohan
Director of Juvenile Probation and Court Services
1100 South Hamilton
Chicago, IL 60612

Multnomah County, OR
Rick Jensen
Detention Reform Initiative Coordinator
Multnomah County Department of Juvenile and Adult Community Justice
1401 NE 68th Street
Portland, OR 97213

Sacramento County, CA
Yvette Woolfolk
Juvenile Justice Initiative Project Coordinator
Juvenile Court Resources
9555 Kiefer Boulevard
Sacramento, CA 95827

Organizations experienced in assisting jurisdictions with case processing reforms include:

The Juvenile Law Center
801 Arch Street, Suite 610
Philadelphia, PA 19107

Pretrial Services Resource Center
1325 G Street, NW, Suite 770
Washington, DC 20005

Center for the Study of Youth Policy
Nova Southeastern University
3305 College Avenue
Ft. Lauderdale, FL 33314

The Justice Management Institute
1900 Grant Street, Suite 815
Denver, CO 80203

References

Butts, Jeffrey A., and Gregory J. Halemba, *Waiting for Justice: Moving Young Offenders Through the Process*, National Center on Juvenile Justice (1996).

Institute of Judicial Administration/American Bar Association, *Juvenile Justice Standards*, Sec. 6.6 et seq. (1980).

Mahoney, Anne R., "Time and Process in Juvenile Court," *The Justice System Journal*, Vol. 10, No. 1 (1985).

Mahoney, Barry, *How to Conduct a Caseflow Management Review: A Guide for Practitioners*, National Center for State Courts (1994).

The Pathways to Juvenile Detention Reform series includes the following publications:

Overview: The JDAI Story: Building a Better Juvenile Detention System

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